

1 MAXWELL M. FREEMAN, #31278  
2 LEE ROY PIERCE, JR., #119318  
3 MICHAEL L. GUREV, #163268  
4 THOMAS H. KEELING, #114979  
5 FREEMAN, D'AIUTO, PIERCE,  
6 GUREV, KEELING & WOLF  
7 A PROFESSIONAL LAW CORPORATION  
8 1818 Grand Canal Boulevard, Suite 4  
9 Stockton, California 95207  
10 Telephone: (209) 474-1818  
11 Facsimile: (209) 474-1245  
12 E-mail: [lrpierce@freemanfirm.com](mailto:lrpierce@freemanfirm.com)  
13 [mgurev@freemanfirm.com](mailto:mgurev@freemanfirm.com)  
14 [tkeeling@freemanfirm.com](mailto:tkeeling@freemanfirm.com)

15 Attorneys for Defendants A.G. Spanos  
16 Construction, Inc.; A.G. Spanos  
17 Development, Inc.; A.G. Spanos  
18 Land Company, Inc.; A.G. Spanos  
19 Management, Inc., The Spanos Corporation

20  
21 IN THE UNITED STATES DISTRICT COURT  
22  
23 FOR THE NORTHERN DISTRICT OF CALIFORNIA

24 National Fair Housing Alliance, Inc., et al.,	)	CASE NO. C07-03255-SBA
	)	
25 Plaintiffs,	)	NOTICE OF MOTION AND MOTION
	)	OF A.G. SPANOS CONSTRUCTION,
26 vs.	)	INC.; A.G. SPANOS DEVELOPMENT,
	)	INC.; A.G. SPANOS LAND
27 A.G. Spanos Construction, Inc., et al.	)	COMPANY, INC.; A.G. SPANOS
	)	MANAGEMENT, INC., AND THE
28 Defendants.	)	SPANOS CORPORATION TO
	)	DISMISS PLAINTIFFS' FIRST
	)	AMENDED COMPLAINT FOR
	)	FAILURE TO JOIN NECESSARY AND
	)	INDISPENSABLE PARTIES

[Fed. R. Civ. P., Rules 12(b)(7) & 19]]

Hearing Date: February 26, 2008  
Time: 1:00 p.m.  
Dept.: Courtroom 3

Complaint Filed: June 20, 2007

25 **TO PLAINTIFFS AND THEIR ATTORNEY OF RECORD:**

26 **PLEASE TAKE NOTICE** that on February 26, 2008, at 1:00 p.m., or as soon  
27 thereafter as this matter may be heard, in Courtroom 3 of the above-entitled court, located at  
28 1301 Clay Street, 3<sup>rd</sup> Floor, Oakland, California, Defendants A.G. Spanos Construction, Inc.,

1 A.G. Spanos Development, Inc., A.G. Spanos Land Company, Inc., A.G. Spanos  
 2 Management, Inc., and The Spanos Corporation ("Spanos Defendants") will and hereby do  
 3 move this court, pursuant to rule 12(b)(7) of the Federal Rules of Civil Procedure, for an order  
 4 dismissing Plaintiffs' National Fair Housing Alliance, Inc., Fair Housing Of Marin, Inc., Fair  
 5 Housing Napa Valley, Inc., Metro Fair Housing Services, Inc., Fair Housing Continuum, Inc.  
 6 ("Plaintiffs") First Amended Complaint for failure to join necessary and indispensable parties.

7 The basis of this Motion, as set forth more fully in the accompanying Memorandum of  
 8 Points and Authorities, is that: (1) the current owners of the affected properties, as well as the  
 9 tenants living in the affected properties and the lenders whose loans are secured by the affected  
 10 properties, are necessary and/or indispensable parties to this action, in which plaintiffs seek,  
 11 among other things, an injunction requiring the rebuilding or retrofitting of the affected  
 12 properties, and (2) plaintiffs have failed to join the current owners, tenants and secured  
 13 lenders.

14 This Motion will be based upon this Notice of Motion and Motion, the Memorandum of  
 15 Points and Authorities in support of this Motion, the Request for Judicial Notice in support of  
 16 this Motion, and the pleadings, orders, records and documents on file in this case, as well as  
 17 such oral and documentary evidence as may be properly presented at the time of the hearing on  
 18 this Motion.

19 Opposition, if any, to the granting of the motion must be served and filed not less than  
 20 twenty-one (21) days before the hearing date. If the party against whom the motion is directed  
 21 does not oppose the motion, that party must file with the Court a Statement of Nonopposition  
 22 within the time for filing and serving any opposition. *See* Local Rule 7-3(a) and 7-3(b).

23 Dated: December 21, 2007

FREEMAN, D'AIUTO, PIERCE, GUREV,  
 KEELING & WOLF

24  
 25 By 

THOMAS H. KEELING

26 Attorneys for Defendants A.G. Spanos  
 27 Construction, Inc.; A.G. Spanos Development,  
 28 Inc.; A.G. Spanos Land Company, Inc.; A.G.  
 Spanos Management, Inc., The Spanos  
 Corporation